



US Army Corps
of Engineers.

SAN FRANCISCO DISTRICT

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

PUBLIC NOTICE

Project: North Coyote Valley Flood Control Improvement Project

NUMBER: 29709S

DATE: July 15, 2005

RESPONSE REQUIRED BY: July 30, 2005

PROJECT MANAGER: Holly Costa

PHONE: 415-977-8438

Email: Holly.N.Costa@usace.army.mil

1. INTRODUCTION: Coyote Valley Research Park, LLC (Mr. David A. Taran, Coyote Valley Research Park, LLC, 575 Market Street, 35th Floor San Francisco, California 94105, (415)284-5700)) has applied for a U.S. Army, Corps of Engineers (Corps) permit to remove fill deposited within the 79.36-acre wetland located near Fisher Creek, in what is often called the historic Laguna Seca, in an unincorporated area of Santa Clara County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. PROPOSED PROJECT:

Project Site: The project will be located at the old historic Laguna Seca area, just south of Tulare Hill, to the east and west of Santa Theresa Boulevard, and north of Bailey Avenue. Current conditions at the site consist of a large basin area, most of which was filled and in which subdrains were installed by a previous land owner in a failed attempt to drain and develop the site in the mid-1980's. Large portions of the site are currently farmed in peas and hay crops, while the northern corner is currently left fallow. Despite the fill, subdrains and agriculture, the historic basin still contain the features of a large seasonal wetland. Unfarmed areas are dominated by *polypogon*, curly doc and *lythrum*. Farmed areas contain these species in smaller quantities where agricultural practices have allowed them to grow without being disturbed. The total area of wetlands

on site is 79.36 acres.

Project Description: As shown in the attached drawings, the applicant plans to excavate the artificial fill and subdrains from the entire basin and revert it to its prior condition. Within the site, two basins will be excavated: a larger to the west of Santa Theresa Boulevard and a smaller to the north, connected by a box culvert under Santa Theresa Boulevard. The basins will be constructed by removing the artificial fills, excavating no more than 9 feet below the current grade, but never lower than the lowest existing point within the wetland. The excavation will average 5 feet. Approximately 1.9 million cubic yards (cy) of fill will be excavated and will be disposed of at an approved offsite location.

Currently, the wetlands are maintained with seasonal rainfall, some surface flow from surrounding lands and seepage from the adjacent mountains. The area will continue to receive these sources of hydrology after the proposed project is constructed. In addition, the area will also receive occasional flood flows, as needed, from a by-pass channel off of Fisher Creek. In total, the basins will provide 1,700 acre-feet of storage in the event of a heavy rainfall event.

Purpose and Need: The basic purpose of this project is flood control and restoration. The overall purpose of this project is to remove artificial fills and return flood storage capacity to the Laguna Seca area of Coyote Valley, while enlarging and enhancing the existing seasonal wetlands. The proposed project is

needed to accommodate potential flood flows in Northern Coyote Valley and prevent flooding of nearby approved developments, which will be constructed within the next few years.

Impacts: The project will result in the removal of approximately 1.9 million cy of fill from 79.36 acres of Corps jurisdictional waters and wetlands. The use of bulldozers and other construction equipment will create temporary fill due to temporary onsite storage prior to removal to the off-site location.

Mitigation: The proposed project will only result in temporary impacts and is intended to be self-mitigating for its impacts, while also increasing wetland area. As a result of this project, the wetland area will be enlarged to 140 acres, which will result in the potential gain of 60 acres of additional wetland habitat.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal

consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. The proposed project will not impact any known threatened or endangered species.

Magnuson-Stevens Fisheries Conservation and Management Act: The NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. There are no EFH concerns with this proposed project.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has submitted a copy of their Section 401 Conditional Water Quality Certification and Waiver of Waste Discharge Requirements has been obtained from the San Francisco Bay Regional Water Quality Control Board (File No. 2188.07).

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that

the proposed project is water dependent.

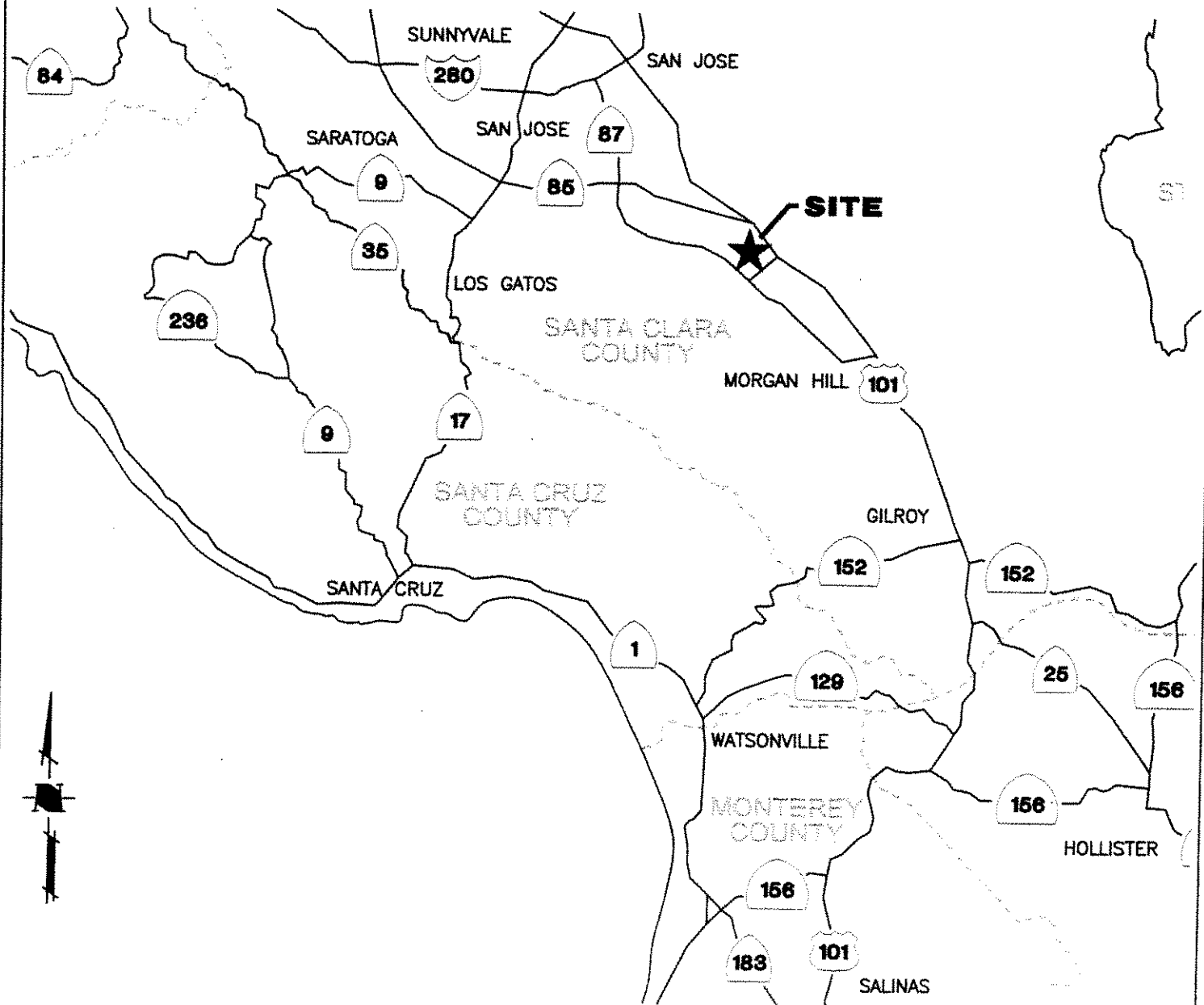
Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. The proposed project is not within the Coastal Zone.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Holly Costa of our office at telephone 415-977-8438 or E-mail: Holly.N.Costa@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.



Date: 4-12-05
 Scale: NTS
 Designed:
 Drawn: TG
 Checked: JET
 Proj. Engr.: JEM
 Dwg Name: 265832EX05

HMH
 ENGINEERS

San Jose
 (408) 487-2200
 Gilroy
 (408) 846-0707

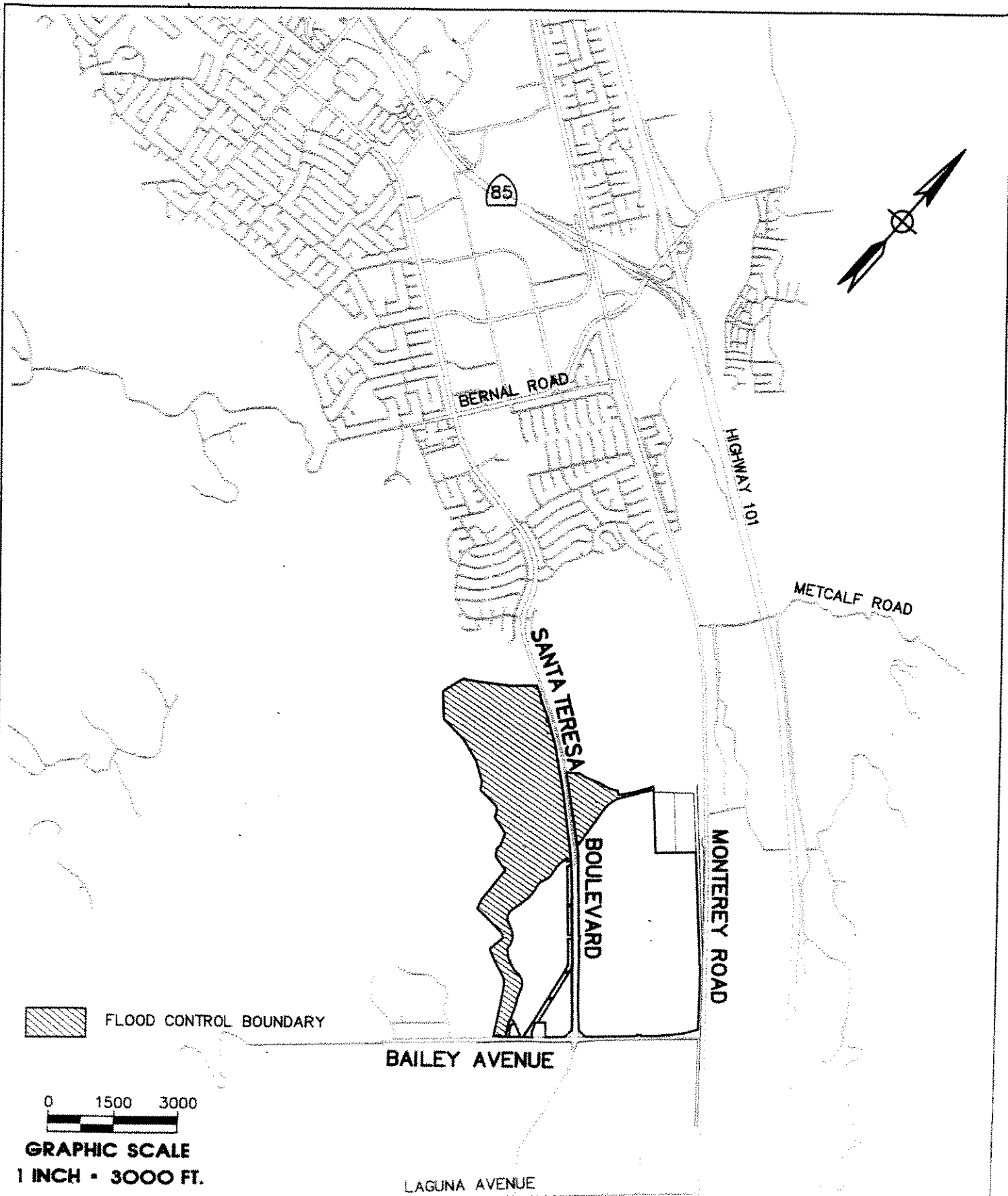
www.hmh-engineers.com

REGIONAL MAP

COYOTE VALLEY RESEARCH PARK

SAN JOSE

CALIFORNIA



Date: 4-12-05
 Scale: 1" = 3000'
 Designed: —
 Drawn: TG
 Checked: JET
 Proj. Engr.: JEM
 Draw Name: 265832EX03

HMH
 ENGINEERS

San Jose
 (408) 487-2200
 Gilroy
 (408) 844-0707

www.hmh-engineers.com

SAN JOSE

VICINITY MAP
 COYOTE VALLEY RESEARCH PARK

CALIFORNIA

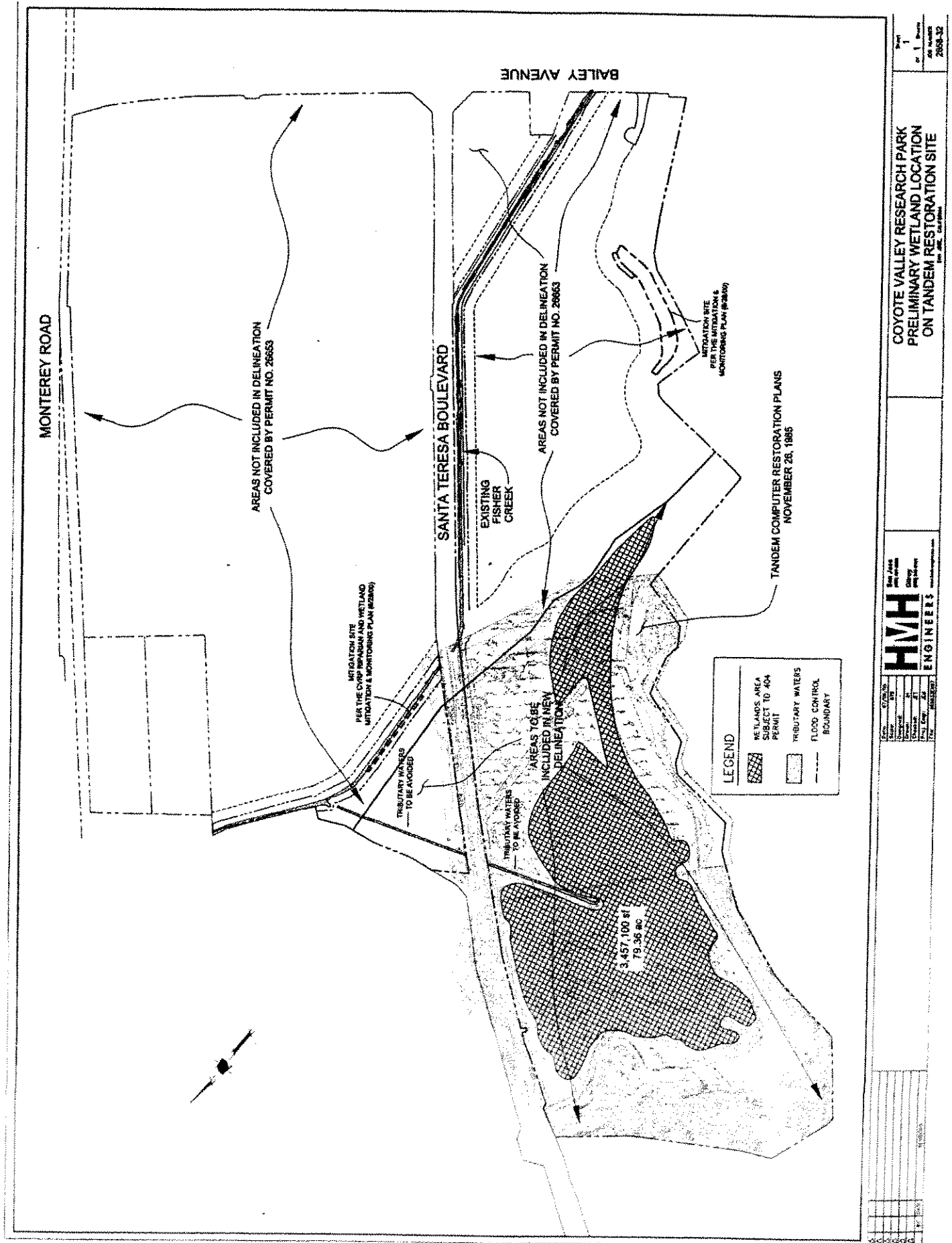
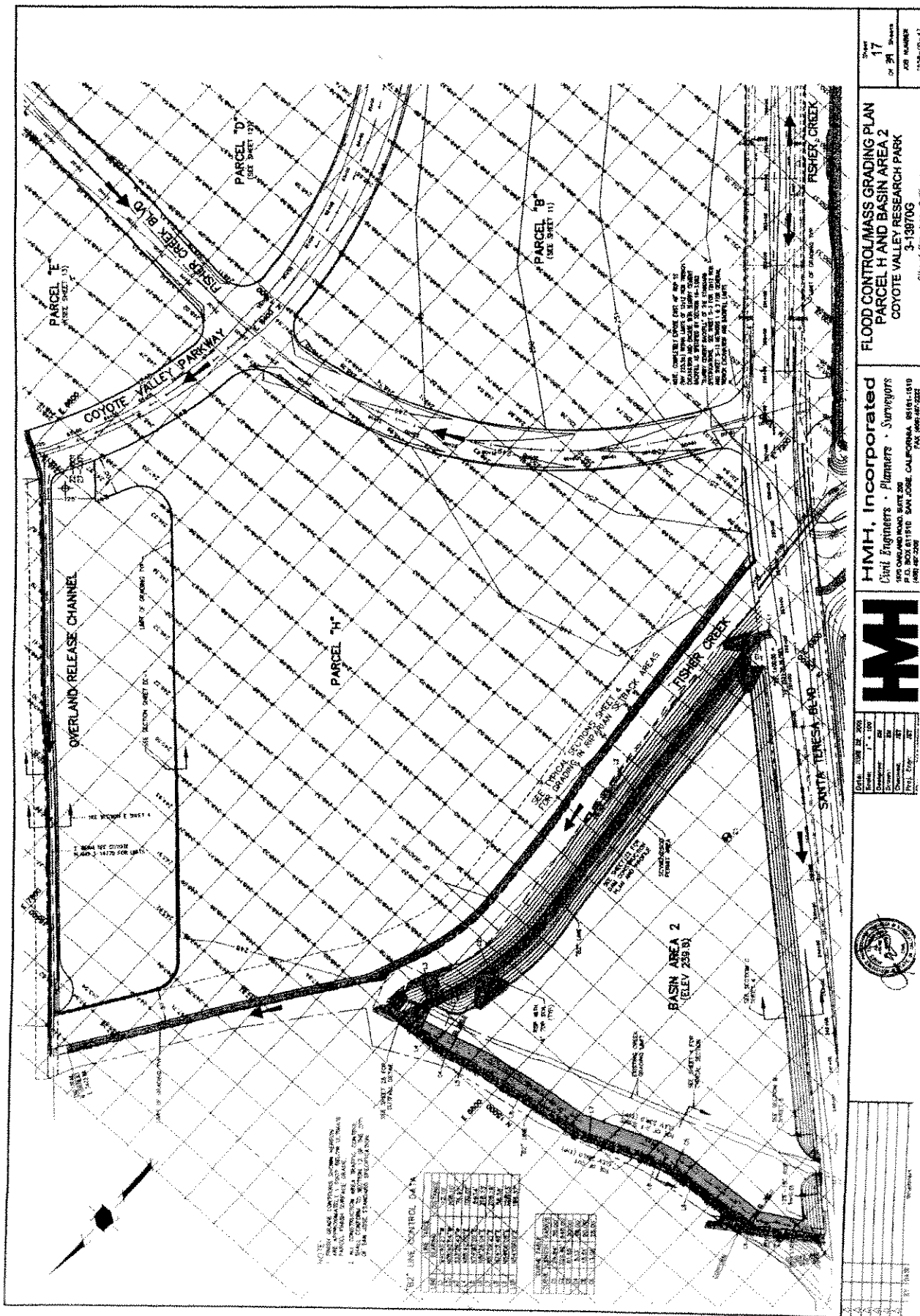


Figure 3 of 7



Sheet
17
of 31
JOB NUMBER
3-139703
DATE
2004-05-17

FLOOD CONTROL/MASS GRADING PLAN
PARCEL H AND BASIN AREA 2
COYOTE VALLEY RESEARCH PARK
 3-139703
 City of San Jose, California

HMH, Incorporated
 Civil Engineers - Planners - Surveyors
 1000 OAKLAND ROAD, SUITE 200
 SAN JOSE, CALIFORNIA 95128-1519
 (408) 435-2200
 FAX (408) 435-2201

DATE	10/28/04	BY	200
REVISION	1"	1"	200
REVISION	2"	2"	200
REVISION	3"	3"	200
REVISION	4"	4"	200
REVISION	5"	5"	200
REVISION	6"	6"	200
REVISION	7"	7"	200
REVISION	8"	8"	200
REVISION	9"	9"	200
REVISION	10"	10"	200



DATE	10/28/04	BY	200
REVISION	1"	1"	200
REVISION	2"	2"	200
REVISION	3"	3"	200
REVISION	4"	4"	200
REVISION	5"	5"	200
REVISION	6"	6"	200
REVISION	7"	7"	200
REVISION	8"	8"	200
REVISION	9"	9"	200
REVISION	10"	10"	200

Figure 6 of 7

